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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DANIEL C. BUCHNER et al

]

Serial No.: 09/576,292

]

Examiner G. Walton

Filed: May 23, 2000

]

Art Unit 3753

For: MODULAR LAVATORY

]

FAUCET SPOUT MOUNTING

**RECEIVED**

Commissioner of Patents and Trademarks

JUL 30 2003

Washington, DC 20231

TECHNOLOGY CENTER R3700

**DECLARATION UNDER RULE 1.131**

I, Todd C. Loschelder, declare as follows:

1. I am one of the named inventors in the above-identified application. I am employed by the assignee of the above-identified application, Moen Incorporated, as a director of product development, and have been employed by Moen Incorporated since April 1, 1994.

2. Attached as Exhibit C is a memorandum defining the concept, described therein as "Modularity," and dated prior to August 13, 1998, the earliest filing date of U.S. Patents 5,946,746, 6,085,784 and 6,138,296. This memorandum summarized a meeting at which I was present at Moen Incorporated and describes, as set forth in claim 16 of the above-identified application, a suite of water control plumbing fixtures which have a common decorative theme, one of which fixtures was the water control plumbing fixture shown in the above-identified application. The memorandum also describes other products within the suite

of water control plumbing fixtures such as widespread, mini-widespread, and single control lavatory faucets; roman tubs for the bath; bidets; showers; and others.

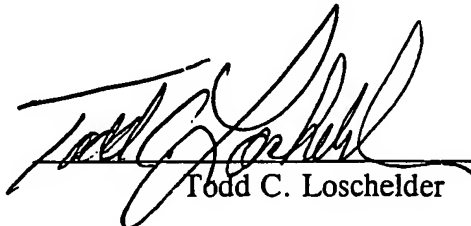
3. As stated in the attached declaration of William R. Markowitz, a plumbing fixture which is the subject of the above-identified application is shown in Exhibit A to the Markowitz declaration and was constructed, assembled, and disassembled under the direction of Mr. Markowitz prior to August 13, 1998.

4. Subsequent to August 13, 1998, and during the period in which several products were actively and diligently being worked on at Moen Incorporated under the Modularity concept defined in Exhibit C, application Serial No. 09/422,773 was filed on October 22, 1999 listing Erwin F. Mikol as the inventor and titled "Modular Shower Arm Mounting System." Mr. Mikol is one of the named inventors in the above-identified application. The invention in the '773 application applies the Modularity concept, as described in Exhibit C, to a shower arm mounting system.

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true and, further, these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and such willful false statements may jeopardize the validity of the application or any registration resulting therefrom.

Date: \_\_\_\_\_

7/5/01

  
Todd C. Loschelder

***Moen***  
**Defining Modularity**

**Competitive Advantage:**

**Consumer:**

- Enables direct sales/relationship.
- Can change out from above.
- Deck - spouts and handles.
- Can add new functionality.
- Easy change of accessories.

**Trade:**

- No trim on until selection.
- Can accommodate any upgrade.
- Spout not with underbody.
- Pre-install plumbing to fixture (labor savings).
- Higher margin on upgrade installation.

**Wholesaler:**

- Lower inventory dollar / more sku's.
- Same part for faucets / accessories.

**Retailer:**

Exclusivity SKU's

- Direct mail to dealer

Customers

Remodel kitchens, lavs, T/S's

## SKU's - Wholesale

Stem extension - 4

Underbodies - 8

### Lav:

- |                    |    |
|--------------------|----|
| 1. Widespread      | I  |
| 2. Mini-widespread | I  |
| 3. Single control  | II |

### Bath:

- |                          |    |
|--------------------------|----|
| 3. Roman                 | I  |
| ↑ 4. 2-H T/S - PB        | II |
| TBD 5. 1-H T/S - PB      | I  |
| ↓ 4/5. Shower only 2H/Sh | I  |
| 8. Bidet                 | I  |
| Tub pullout              | II |

### Kitchen:

- |                |    |
|----------------|----|
| 6. 2-H         | I  |
| 7. 1-H Pullout | II |

### Accessories:

I

**Accessories:**

Towel bars

- Toilet paper holder
- Towel ring
- Tooth brush holder, soap/cup
- Robe hook
- Shower storage
- Mirrors?
- Hardware?

**Timing**

**Knob**

**Lever**

Widespread underbody

July '99

Retrofit handle interfaces

Chateau

Monticello

New handle interfaces

July

Handles

July

Spouts

Accessories



Price/Style

	<u>Decades</u>	<u>Millenium</u>	<u>Naturals</u>
	<u>Temporary</u> Sports Hero Hobbies	<u>Life Stages</u> Kids Teenage Adult	<u>Decor</u> Country Contemporary Classic
<u>Boutique</u>			
<u>Monti</u>			
<u>Chateau</u>			
<u>Handles</u>	Monti - current	• New trim element	
	Traditional	• New trim ring on Monti spout, new handle	
	Contemporary	• New handles • New spout	
<u>Spouts</u>			
	Modify Hi Arc Monti		
	Contemporary spout		
	Modify Monti kitchen		
	Granite insertions		